

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Scott James Weaver	§	Group Art Unit:	2193
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Serial No.:	10/041,743	§	Confirm. No.:	3989
		§		
Filed:	01/10/2002	§	Examiner:	Tuan A. Vu
		§		
For:	DATA WEDGE	§	Atty. Dkt. No.:	9288

Mail Stop: Appeal
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF AND REQUEST FOR REVIEW

Dear Sir:

Applicant respectfully requests review and withdrawal of the final rejection, mailed April 7, 2009, in light of the pre-appeal brief that follows. No amendments have been made or filed and a Notice of Appeal is being filed contemporaneously with this request for review.

Rejection of Claims under 35 U.S.C. § 112, First Paragraph

The Office has rejected independent claims 17 and 25 asserting “the claim(s) contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed inventions.” (Office Action, page 2, section 3.) Applicant does not agree with the analysis made by the Office and respectfully traverses the analysis and the rejections based thereon.

In re Count 1:

Applicant requires “creating a third data model and a data storage in a data wedge by integrating the first schema and the second schema into the data wedge.”

The Office asserts “it is not recognized from the Specifications that a act of integrating 2 schemas takes place to yield a third model as recited.” (Office Action, page 2, section 3, paragraph 2.) Applicant disagrees with this assertion.

The specification teaches that a client is a software component, which reuses or accesses the functionality of a server software component. (See Specification, paragraph 3.) The specification also teaches “The Data Wedge attempts to minimize code modification when integrating software components by utilizing a data model of cooperating components” (Specification, paragraph 22.) This establishes that the Data Wedge indeed has a data model and it is comprised of cooperating components. The specification further teaches “a client that uses the Wedge must first create a schema describing its logical data model ... once the schema is defined, the client creates an instance of the Wedge in step 32 by providing its schema ... If the Wedge already exists ... the schema is dynamically integrated into that Wedge ... Otherwise, a new Wedge composed of the single schema is created” (Specification, paragraphs 37 and 38.) The client here is a cooperating component and it provides a schema of its logical data model that is dynamically integrated into the Data Wedge. The specification teaches that a data model is used when integrating software components so a person of ordinary skill in the art would understand that the schema must be integrated into the Data Wedge using a data model. The specification goes on to teach how a data element inserted into a component data model is translated into other components data models.

From these passages, it is clear that Applicant’s specification does indeed contain the requisite teachings to reasonably convey to one skilled in the art that Applicant indeed had possession of the claimed inventions at the time the present application was filed. The Office’s assertion is therefore improper and Applicant requests that it be withdrawn.

In re Count 2:

Applicant requires “creating a first schema comprising the first data model of the first software component; creating a second schema comprising the second data model of the second software component.”

The Office asserts “creating a first schema ...; creating a second schema ...”. According to the Specifications, the data Wedge receives schemas from users (see

schema A, B – Fig. 1) and there is not a description therein that explicitly mentions about (the method/system being claimed as) a software capability to create the schema A or B as mentioned above.” (Office Action, page 3, section 4, first paragraph.) Applicant disagrees with this assertion.

Applicant traverses the statement that “According to the Specifications, the data Wedge receives schemas from users (see schema A, B – Fig. 1).” The elements the Office has identified in Fig. 1 do not show the presences of a user or that the Data Wedge receives schemas from users. To the contrary, the Specification teaches “each client component must define its logical view of the data (its data model) and provide this definition to the Wedge upon connection. This definition is in the form of a ... schema definition.” (Specification, paragraph 24.) This clearly states that client components, which are software components, provide schema to the Data Wedge upon connection.

Furthermore, as quoted above “a client that uses the Wedge must first create a schema describing its logical data model.” (Specification, paragraph 37.) The client here is a software client as also described above and the specification teaches there can be multiple clients. Therefore, the Specification distinctly teaches that software creates schemas as required in the claims. However, the Office additionally asserts “The client here is understood [to be] a[n] online user that operates a instance of this Wedge tool” (Final Office Action, page 12, lines 20-21.) This is simply not a correct assertion by the Office. The above citation from paragraph 37 is describing a process depicted in Fig. 2. Paragraph 36 states “A process flow of a software component or client, e.g., component A 12, using the Wedge 10 is described with reference to Figure 2.” Figure 2 depicts a process flow for a software component and not a user. The Specification further states “a software component can be both a server (offering some of its functionality for reuse) or a client (using another component’s functionality)” (Specification, paragraph 3.) Nowhere does the Specification teach that a client is a user. To the contrary, the Specification always teaches that a client is a type of software component. The assertion by the Office is therefore improper and the arguments based on this assertion suffer likewise.

From these passages, it is clear that Applicant’s specification does indeed contain the requisite teachings to reasonably convey to one skilled in the art that Applicant indeed

had possession of the claimed inventions at the time the present application was filed. The Office's assertion is therefore improper and Applicant requests that it be withdrawn.

102(e) Rejection of Independent Claims by Worden

Applicant requires "creating a third data model and a data storage in a data wedge by integrating the first schema and the second schema into the data wedge." The "first schema" is required to be a data model of a first software component and the "second schema" is required to be a data model of a second software component. The Office asserts that Worden teaches these requirements and states "see Fig. 9 – Note: using Xmlator to map model to XML for 2 intended languages reads on first and second integration of respective model schema into the wedge or third model." Applicant disagrees with this assertion.

Worden discloses a method to translate a document written in one XML language to a document written in a second XML language. Worden teaches that the Xmlator uses an XSLT file to translate an input file, in one XML language, to an output file, in another XML language. The XSLT file contains syntactic and meaning information for each language. (See Worden, paragraphs 357 – 363.) The Office asserts that syntactic and meaning information for each language is equivalent to Applicant's first and second schemas. This is simply not true. Applicant's schema must be for data models for software components. Data models for software components are not the same as syntactic and meaning information for a language. The Office as failed to establish that Worden shows or suggest at least these required elements.

Applicant requires "storing the translated data element in the data storage, by the data wedge." The data element has been translated into the format of the third data model. The Office asserts that Worden teaches this requirement, however Applicant disagrees. The cited passages teach of an intermediate file (para. 38) but Worden stores mappings information in the file and not a data element that has been translated as required by Applicant. Therefore, the Office as failed to establish that Worden shows or suggest at least these required elements.

Note: Space constraints of the pre-appeal brief format do not allow further remarks to address other errors in the Office Action.

Rejection of the Dependent Claims

Claims depending from claims 17 and 25 are allowable for at least the same reasons presented above. A *prima facie* case of anticipation or obviousness cannot be established because the Office has failed to show that Worden shows or makes obvious all the elements of Applicant's claimed invention. The rejection is therefore improper and Applicant requests that it be withdrawn.

CONCLUSION

In view of the arguments above, Applicant asks the Office to reconsider this application, withdraw the rejections and allow all pending claims. Please charge any fees that might be due, excluding the issue fee, to deposit account 14-0225.

Respectfully submitted,

Date: August 7, 2009

(Filed Electronically)

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